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APPLICATION NO. 89/376,875	FILING DATE 08/18/99	FIRST NAMED INVENTOR CHRYSLER	ATTORNEY DOCKET NO. 884.148051
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EXAMINER ATRINSON, C
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ART UNIT 3743	PAPER NUMBER 7
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DATE MAILED: 12/14/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/326,875

Applicant(s)

Chrysler et al.

Examiner

Atkinson

Group Art Unit

3743

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 12/4/2000.
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-3, 5-9 and 22-24 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-3, 5-9 and 22-24 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☒ The proposed drawing correction, filed on 12/4/2000 is ☒ approved ☐ disapproved by the Examiner.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

\*Certified copies not received: \_\_\_\_\_.

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

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***Response to Amendment***

Applicant's arguments filed 12/4/2000 have been fully considered but they are not persuasive.

Claims 4 and 10-21 have been cancelled.

Claims 1-3, 5-9 and 22-24 are pending.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 5-9 and 22-23 are rejected under 35 U.S.C. § 102(b) as being anticipated by

Yeh. The patent of Yeh in Figures 1-6 discloses applicant's claimed invention.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

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This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103, the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 C.F.R. § 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. § 102(f) or (g) prior art under 35 U.S.C. § 103.

Claim 3 is rejected under 35 U.S.C. § 103 as being unpatentable over Yeh in view of Bishop et al. The patent of Yeh discloses all the claimed features of the invention with the exception of a second fan.

The patent of Bishop et al. in Figure 1 discloses that it is known to have both first and second fans for the purpose of enhancing the convective heat transfer of the heat sink. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Yeh a second fan for the purpose of enhancing the convective heat transfer of the heat sink as disclosed in Bishop et al. If applicant meant for claim 24 to depend on claim 22, the following rejection would apply.

Claim 24 is rejected under 35 U.S.C. § 103 as being unpatentable over Yeh. The patent of Yeh discloses all the claimed features of the invention with the exception of the claimed material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the base out of diamond, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

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*Response to Arguments*

Applicant's concerns directed toward Yeh are not found persuasive. The hole/opening (306) in Yeh does "extend along a portion of the length of the top of the at least one fin". The diameter of the opening/hole does have a finite length and therefore this length does "extend along a portion of the length of the top of the at least one fin" as claimed in claims 1 and 22.

In response to applicant's argument directed toward Bishop et al., the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Bishop et al. are not relied upon in the above rejection for teaching fan attaching hardware. The Bishop et al. reference would have suggested to those of ordinary skill in the art that it is known to have two fans on a finned heat sink for the purpose of enhancing the convective heat transfer of the heat sink. Since Yeh clearly teaches a fan attached to a finned heat sink, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Yeh a second fan for the purpose of enhancing the convective heat transfer of the heat sink as disclosed in Bishop et al.

Regarding applicant's concerns directed toward the material being diamond, the Examiner is not required to supply applicant with a reference which teaches this material since the Examiner did not give an Office Notice Rejection. Rather, the Examiner gave an obvious type rejection of

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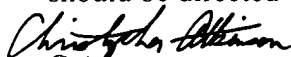
known materials which states that it would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the base out of diamond, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. Furthermore, it is not believed that applicant does not or would not know about heat sinks being made from materials such as diamond.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Atkinson whose telephone number is (703) 308-2603.

  
C.A.

CHRISTOPHER ATKINSON  
PRIMARY EXAMINER

December 13, 2000